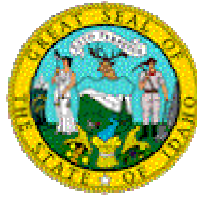


Bill To:
State of Idaho

Send invoices to the
address listed
below or as indicated in
the
comments or instructions
field
Boise, ID 83720-0075



State of Idaho

THIS NUMBER MUST APPEAR
ON ALL DOCUMENTS

Statewide Blanket Purchase
Order
SBPO1192

Statewide Blanket Purchase Order

DELIVER TO: Various State Agencies
Located throughout Idaho

Various, ID 83701

Date: Wed Jun 30, 2004
F.O.B: Destination
Terms:

VENDOR: SkyFrames, Inc
555 Anton Blvd. 12th Floor
Costa Mesa, CA 92626
Attn: Chairman
Vendor Nbr:
Emailed To:
cnoblett@skyframes.com
Phone: 714 822-3900
Fax: 714 822-3900
Account Number:
P00000057528

Contract From Date: Wed Jun 30, 2004
Contract To Date: Mon Jun 29, 2009

RFQ#: RFQ04189
DOC#: PREQ8234

File(s) Attached:



IdanetMasterServicesAgreement61404.pdf

Buyer: **MARK LITTLE** 208 327 7359

Item No	Description	Quantity UOM	Unit Price	EXTENSION
000	BLANKET PURCHASE AGREEMENT (line item particulars follow)	1 lot		0.00
Total:				0.00

Blanket
Comments:

.....NOTICE OF STATEWIDE CONTRACT (SBPO) AWARD


Contract for Private Network Satellite Services for various state of Idaho agencies, institutions, and departments. This contract is to be drawn on as requested by the requisitioning agencies for a period of five (5) years with an option to renew for two (2) additional two (2) year periods. The Division of Purchasing or the requisitioning agency will issue individual releases (delivery or purchase orders) against this Master Contract on an as needed basis.

Contract Title:..... Private Network Satellite Services
Delivery Zone/Area:.....Statewide
Contract Usage Type:.....Category Dependent per the Master Service Agreement
Public Agency Clause:Yes
Contract Administration:....Mark Little
---Phone Number:.....208-327-7465
---E-Mail:.....Mark Little@adm.state.id.us

Contractor's Primary Contact
---Attn:.....Chet Noblett
---Address:.....555 Anton Blvd. 12th Floor
---City, State, Zip:.....Costa Mesa, CA 92626
Phone Number:.....714/ 822-3900
Fax Number:.....714/ 822-3900

CONTRACTOR: Ship to the FOB DESTINATION point and BILL DIRECTLY to the ORDERING AGENCY. DO NOT MAIL INVOICES TO THE DIVISION OF PURCHASING. Notating the Contract Award Number on any invoices/statement will facilitate the efficient processing of payment.

Item No	Description	Quantity UOM	Unit Price	EXTENSION
001	Private Network Satellite Services per the attached Idanet Master Services Agreement. (915-51) (nt)	1 LT	0.00	0.00
General Comments:	<p>QUANTITIES: The State of Idaho, Division of Purchasing can only give approximations of quantities and will not be held responsible for figures given in this document.</p> <p>Order Placement Address: ---Company Name:.....SkyFrames Inc. ---Address:..... 555 Anton Blvd. Suite 1200 (Accounting) ---City, State, Zip:..... Costa Mesa, CA 92626</p> <p>Payment Address: ---Company Name:..... SkyFrames Inc ---Address:..... 555 Anton Blvd. Suite 1200 (Accounting). ---City, State, Zip:..... Costa Mesa, CA 92626</p> <p>THIS CONTRACT, (including any files attached), CONSTITUTES THE STATE OF IDAHO'S ACCEPTANCE OF YOUR SIGNED IDANET MASTER SERVICES AGREEMENT, WHICH SUBMISSION IS INCORPORATED HEREIN BY REFERENCE AS THOUGH SET FORTH IN FULL.</p> <p>In the event of any inconsistency, unless otherwise provided herein, such inconsistency shall be resolved by giving precedence in the following order:</p> <p>1. This Statewide Blanket Purchase Order document. 2. The Contractor's signed Master Services Agreement.</p>			
Instructions:				
Freight / Handling Included in Price				
			By: MARK LITTLE	



Idanet™ MASTER SERVICES AGREEMENT

This MASTER SERVICE AGREEMENT ("MSA") is made this 14th day of June, 2004 ("Effective Date") by and between SkyFrames, Inc. with offices at 555 Anton Blvd. 12th Floor, Costa Mesa, Calif 92626 ("Provider") and the State of Idaho ("State"), acting through its Department of Administration, Division of Purchasing. The parties hereto agree as follows:

Article I. GENERAL TERMS AND CONDITIONS

Section 1.01 DEFINITIONS

- a) **Customer:** Departments and institutions of state government including but not limited to departments, agencies, commissions, councils and boards, institutions of higher education, elected officers in the executive department, the legislative and judicial departments, and Public Agencies (any political subdivision of the state of Idaho). See also definitions of "Public Agency" and "User(s)".
- b) **Idanet:** The State's digital broadband initiative to establish a single, consolidated network under a single administrative domain that is shared by the State in order to conduct state business. This single, consolidated network is a collection of telecommunications services, State-acquired equipment, components, maintenance agreements, staff, processes and procedures that allow for the easy flow of data and use of information technology resources.
- c) **Idanet Backbone Node Locations):** The Idanet Backbone consists of five primary switch locations: 450 W. State St (8th Floor)-Boise Pete T Cenerussa building, 317 Main St-Boise (Department of Labor), 700 S. Stratford - Meridian (Idaho State Police), 2700 North & South Highway-Lewiston (Transportation Department), 600 W. Prairie-Coeur d'Alene (Transportation Department). Provider's will terminate their services into Idanet at the appropriate node location(s) in their areas.
- d) **Idanet Services Manager (ISM):** The Department of Administration's representative who will be the principle operational liaison with the Provider and who is responsible to co-administer with the Division of Purchasing multiple Idanet MSAs.
- e) **Initial Response:** The first and primary reaction from the Provider in response to a trouble report placed by the SNOC. The Provider's Initial Response to the SNOC at a minimum must contain information about the

AGREEMENT

probable cause(s) of the trouble and possible courses of resolution. The Provider and the SNOC shall mutually agree upon a time for the next status report. For Major Trouble, the Provider must issue its Initial Response within one (1) hour of the trouble report; for Minor Trouble, the Provider must issue its Initial Response within two (2) hours of the trouble report.

- f) **Master Service Agreement (MSA):** This contract document and any service order issued pursuant to this document and the Provider's targeted service level objectives.
- g) **Major Trouble:** Major trouble is defined as any one or combination of the following: (i) the loss of a critical business function; (ii) the failure of a critical Idanet circuit; or (iii) the loss of data service at a critical Idanet facility. Critical business function is defined as a discipline directly related to life safety, public safety, finance or revenue and taxation. Critical Idanet circuits are defined as any channelized circuit with a capacity of DS3 or greater. Critical Idanet facilities are defined as any location with a circuit connection of OC3 or greater.
- h) **Minor Trouble:** Minor trouble is defined as network problems not classified as Major Trouble but which fail to meet performance objectives identified pursuant to Section 2.03.
- i) **Off-Net Services:** Telecommunication Services that connect two locations and that are not entirely provided by Provider on its owned or managed facilities but involve use by Provider of third party facilities and/or services.
- j) **On-Net Services:** Services that connect two locations and are provided entirely by Provider's owned or managed facilities.
- k) **Point of Demarcation:** The point within a building or within part of a building where the responsibility of the Provider ends and the responsibility of the User begins. The building, or part of a building, may be owned, leased or rented by the State.
- l) **Provider:** The sole proprietorship, partnership, consortium, corporation or other form of business entity that is obligated under this MSA to offer, install and maintain telecommunications services to Users.
- m) **Public Agency:** Any political subdivision of the state of Idaho, including, but not limited to counties; cities; school districts; highway districts; and port authorities; instrumentalities of counties, cities or any political subdivision created under the laws of the state of Idaho.

IdanetTM MASTER SERVICES

AGREEMENT

- n) **Service Coverage Area:** Geographic locations within the state of Idaho where the provider offers service coverage (i.e. cities within Idaho provider's services are available).
- o) **State Network Operations Center (SNOC):** A place from which Idanet is supervised, monitored, and maintained. The SNOC may be consolidated or distributed and may be staffed by State employees, service bureau staff or both. It may be comprised of a room or rooms containing visualizations of Idanet, workstations at which the detailed status of the network can be seen, and the necessary software to manage it. The SNOC is Idanet's focal point for network troubleshooting, software distribution and updating, switch and network management, performance monitoring, and coordination with affiliated networks.
- p) **State:** The Department of Administration, Division of Purchasing, acting as statutory agency for the Department of Administration, Division of Information Technology and Communication Services, and Mandatory Users and Voluntary Users, as defined herein.
- q) **Subscriber:** Same as Customer. See definitions "Customer", "Public Agency", User(s)"
- r) **Telecommunications Services:** The transmission of two-way interactive signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means that originate and terminate in Idaho, and are offered to or for the public, or some portion thereof, for compensation.
- s) **User(s):** Mandatory or Voluntary User(s), as defined herein, or both, as the case may be. . Mandatory users are all departments and institutions of state government referenced in Idaho Code § 67-5747(a)(i), including but not limited to departments, agencies, commissions, councils and boards, which must be provided telecommunications services under this or another MSA. Voluntary Users are institutions of higher education and elected officers in the executive department, as referenced in Idaho Code § 67-5747(a)(ii) and the legislative and judicial departments as referenced in Idaho Code § 67-5747(a)(iii) along with a Public Agency, as defined herein, which may be provided telecommunications services under this or another MSA.

Section 1.02 SERVICES

- a) **Nature:** The Provider acknowledges and agrees that this MSA is entered pursuant to and in accordance with Idaho Code § 67-5747 and the statutes

Idanet™ MASTER SERVICES

AGREEMENT

and rules governing the Department of Administration, Division of Purchasing. The Provider further acknowledges and agrees that by entering into this MSA it is obligated to utilize this MSA when doing business with all Mandatory Users.

- b) **Scope:** The services acquired herein may be provided in all counties in the state of Idaho.
- c) **Variety:** The services acquired herein include, Private Network Satellite Services. Internet Services through Satellite connectivity are not included. Internet is not to be offered as a service through this contract. Future emerging services may be added to this MSA when and where they become available and affordable.
- d) **E-Rate Service** The Provider acknowledges and agrees that all Telecommunications Services offered and installed under this MSA must be eligible for E-rate discounts. Qualifying schools or libraries may acquire services offered through this MSA and related E-rate discounts must apply.

Section 1.03 TERM and NON-EXCLUSIVITY

This MSA is for an initial 5-year term with two 2-year renewal options. Similar services may be obtained under a different Idanet Master Service Agreement with another provider, in accordance with the terms of this MSA.

Individual service orders placed under this MSA, notwithstanding termination under Section 1.08, shall be for a period of not less than twelve (12) months and not more than sixty (60) months plus any authorized renewal period.

Section 1.04 GENERAL INSURANCE REQUIREMENTS

For the duration of the MSA, the Provider shall maintain in effect all insurance as required herein and comply with all limits, terms and conditions stipulated therein. Policies shall provide, or be endorsed to provide, all required coverage. Within two (2) weeks after signing this MSA, the Provider must provide certificate(s) or certified endorsement(s), as applicable, of the insurance required.

Automobile and general liability insurance required by this section shall name the State as an additional insured and shall be with insurers rated A-VII or better in the latest Best's Rating Guide and in good standing and authorized to transact business in Idaho. The coverage provided by such policy shall be primary to any coverage of the State on or related to this MSA and shall provide that the

AGREEMENT

insurance afforded applies separately to each insured against whom a claim is made, except with respect to the limitation of liability. All required policies shall require thirty (30) days' notice to the State, by certified or registered mail, return receipt requested, prior to any cancellation, refusal to renew or a reduction in the limits of the coverage provided. The Provider waives all rights against the State and its agents and employees for recovery of damages to the extent these damages are covered by the required policies. Policies may contain deductibles but such deductibles shall not be deducted from any damages due to the State.

By requiring insurance herein, the State does not represent that coverage and limits will necessarily be adequate to protect the Provider and such coverage and limits shall not be deemed as a limitation on any of the Provider's liabilities under the indemnities granted to the State.

The amount of such insurance shall be not less than:

- Worker's Compensation Insurance in amounts as required by statute. A qualified self-insurer of workers compensation in the State of Idaho can be relied on to satisfy the workers compensation and employers liability requirements of the MSA provided proof of self insurance for workers compensation is provided to the State in writing.
- Employer's liability limit of \$1,000,000.
- Automobile Liability including non-owned and hired of \$1,000,000.
- Commercial General Liability and Umbrella Liability Insurance including Contractual Liability and Personal Injury of \$1,000,000.

Section 1.05 **PUBLIC INFORMATION**

- Press Releases:** The Department of Administration's chief Public Information Officer must approve in writing in advance any press releases issued by the Provider regarding this MSA or IdanetTM.
- Public Records:** The Idaho Public Records Law, Idaho Code Sections 9-337 through 9-348, allows the open inspection and copying of public records. Public records include any writing containing information relating to the conduct or administration of the public's business prepared, owned, used, or retained by a state or local agency regardless of the physical form or character. ALL, OR MOST, OF THE INFORMATION CONTAINED IN THIS MSA WILL BE A PUBLIC RECORD SUBJECT TO DISCLOSURE UNDER THE PUBLIC RECORDS LAW. If the Provider considers any

AGREEMENT

provision of this MSA to be exempt from disclosure as a trade secret or otherwise, the burden is on the Provider to specifically identify such provision. PRICES QUOTED IN THIS MSA ARE NOT A TRADE SECRET. The State, to the extent allowed by law and in accordance with these terms and conditions, will honor a designation of nondisclosure. The Provider will be required to defend any claim of trade secret or other basis for nondisclosure in the event of an administrative or judicial challenge to the State's nondisclosure.

- c) **Use of the State of Idaho Name:** The Provider agrees that it will not, prior to, in the course of, or after performance under this MSA use the State's name in any advertising or promotional media as a customer or client of the Provider without the prior written consent of the Idaho Department of Administration's chief Public Information Officer.

Section 1.06 PRICING

- c) **"Most Favored Pricing":** Pricing offered by the Provider shall always be the most favorable pricing offered to any other customers of similar size, complexity and scope. If the Provider separately offers lower pricing to any Voluntary User, the Provider must offer the same lower pricing to all Users.
- d) **Inclusiveness of Pricing:** The Provider's pricing shall be inclusive of any applicable fees, taxes and surcharges.
- e) **Price Ceiling:** The Provider's pricing represents a maximum price for a given service over the initial term of the MSA, except as provided in Section 1.06(d).
- f) **Adjustments:** Annual pricing increases to MSA extensions following the initial five (5) year term shall not exceed three percent (3 %) per renewal period.

Section 1.07 Service Coverage Area

- a) **Service Coverage Area:** Geographic locations within the state of Idaho where the provider offers service coverage (i.e. cities within Idaho provider's services are available).

Section 1.08 LATE PAYMENT & EARLY TERMINATION

- a) **Late Payment Fees:** A late charge shall be assessed and accrue at the rate determined in the application of Idaho Code § 63-3045 commencing ten (10)

Idanet™ MASTER SERVICES

AGREEMENT

calendar days after payment is due. Payments will be made in accordance with Idaho Code § 67-2302(2).

- b) **Early Termination Charges:** If the User terminates early all or part of any service order for ongoing services after installation, other than pursuant to Section 1.08, the User shall pay a termination charge equal to fifty per cent (50%) of the monthly rate for the services being terminated multiplied by the number of months remaining in the initial term of applicable service order, after the date of termination, plus the balance of all billed but unpaid recurring and all outstanding nonrecurring charges. For purposes of this section only, “terminates early” means terminating at a point in the initial service order term that is less than eighty percent (80%) through the initial service order term.

Section 1.09 MSA TERMINATION

- a) **For Cause:** The State may terminate the MSA or any order issued pursuant to the MSA when the Provider has been provided written notice of default or non-compliance and has failed to cure the default or non-compliance within a reasonable time, not to exceed ten (10) calendar days, after receipt of such notice. If the MSA is terminated for default or non-compliance, the Provider will be responsible for any direct costs and/or damages incurred by the State for placement of a new MSA. The State, upon termination for default or non-compliance, reserves the right to take any legal action it may deem necessary including, without limitation, offset of damages against payment due.
- b) **For Non-appropriation:** It is understood and agreed that the State is a government entity, and this MSA shall in no way or manner be construed so as to bind or obligate the State of Idaho beyond the term of any particular appropriation of funds by the State Legislature as may exist from time to time. The State reserves the right to terminate this MSA, in whole or in part, if, in its sole judgment, the legislature of the State of Idaho fails, neglects or refuses to appropriate sufficient funds as may be required for the State to continue payment or requires any give-back of funds as may be required for the State to continue payment, or if the executive branch mandates any cuts or holdback in spending. Any such termination shall take effect on ten (10) days’ notice and be otherwise effective as provided in this MSA. It is understood and agreed that the payments provided for shall be paid from legislative appropriations.

Section 1.10 PUBLIC AGENCY USE

MSA services and prices shall be extended to other “Public Agencies.”

Idanet™ MASTER SERVICES

AGREEMENT

Section 1.11 AMENDMENT

Any changes to this MSA or any service order issued hereunder must be mutually agreed upon via a written amendment to be effective.

Section 1.12 TAXES

The state of Idaho is generally exempt from payment of state sales and use taxes and from personal property tax for property purchased for its use. The State is generally exempt from payment of federal excise tax under a permanent authority from the District Director of the Internal Revenue Service (Chapter 32 Internal Revenue Code [No. 82-73-0019K]). Exemption certificates will be furnished as required upon written request by the Provider. If the Provider is required to pay any taxes incurred as a result of doing business with the state of Idaho, it shall be solely and absolutely responsible for the payment of those taxes. If, after the effective date of this MSA, an Idaho political subdivision assesses, or attempts to assess, personal property taxes not applicable or in existence at the time this MSA becomes effective, the state of Idaho will be responsible for such personal property taxes, after reasonable time to appeal. In no event shall the state of Idaho be responsible for personal property taxes affecting items subject to this MSA at the time it becomes effective.

Section 1.13 SAVE HARMLESS

The Provider shall defend, indemnify and hold harmless the State from any and all liability, claims, damages, costs, expenses, and actions, including reasonable attorney fees, to the extent caused by or arising from the negligent or wrongful acts or omissions under this MSA of the Provider, its employees, agents, or subproviders that cause death or injury or damage to property or arising out of a failure to comply with any state or federal statute, law, regulation or act. IN NO EVENT WILL PROVIDER BE LIABLE FOR INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES. The Provider shall have no indemnification liability under this section for death, injury, or damage arising out of the negligence or misconduct of the State.

Section 1.14 SUBCONTRACTING

The Provider may enter into any subcontract relating to the performance of this MSA or any part thereof. The Provider's use of subcontract shall not in any way relieve the Provider of responsibility for the professional, technical accuracy and adequacy, and timeliness of the work. The Provider shall be and remain liable for

AGREEMENT

all aspects of the MSA and all damages to the State caused by negligent performance or non-performance of work under the MSA by the Provider's subprovider or its sub-subproviders. The Provider shall not subcontract the management, oversight, operational, or technical control of the MSA.

SECTION 1.15 ASSIGNMENTS

Neither this MSA nor any service order or any interest therein shall be transferred by the Provider to any other party, without the approval in writing of the Administrator, Division of Purchasing. Transfer of a MSA without approval shall cause the annulment of the MSA or service ordered so transferred, at the option of the State. All rights of action, however, for any breach of such MSA by the contracting parties are reserved to the State. However, subject to the provisions contained herein, the Provider may assign this MSA or any service order without prior written consent to any entity that controls, is controlled by, or is in common control with the Provider or to any successor in interest to the Provider or if necessary to satisfy the rules, requirements and/or regulations of any federal, local or state governmental agency. In the event of such an assignment, the Provider shall remain fully responsible and liable for performance.

Section 1.16 PATENT and COPYRIGHT INDEMNITY

The Provider shall indemnify and hold harmless and shall defend at its own expense any action brought against the State based upon a claim that the services provided under this MSA infringes any patent, trademark, copyright or trade secret. The Provider will pay all damages and costs finally awarded and attributable to such claim, but such defense and payments are conditioned on the following: (i) that the Provider shall be notified promptly in writing by the State of any notice of such claim; (ii) that the Provider shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise and State may select at its own expense advisory counsel; and (iii) that the State shall cooperate with the Provider in a reasonable way to facilitate settlement or defense of any claim or suit.

The Provider shall have no liability to the State under any provision of this clause with respect to: any claim of infringement that is based upon (i) State content; (ii) unauthorized modifications to the Telecommunications Services by the State; (iii) the Provider's adherence to the State's written requirements; or (iv) the use of the Telecommunications Services in violation of this MSA.

AGREEMENT

Should the Telecommunications Services become, or in the Provider's opinion be likely to become, the subject of a claim of infringement, the State shall permit the Provider, at its option and expense, either to procure for the State the right to continue using the Telecommunications Services, to replace or modify the Telecommunications Services so that it becomes non-infringing, or, if those alternatives are not reasonably available, the Provider may terminate the Telecommunications Services without liability except as otherwise provided in this MSA.

SECTION 1.16 PROVIDER RELATIONSHIP

It is distinctly and particularly understood and agreed between the parties hereto that the state of Idaho is in no way associated or otherwise connected with the performance of any service under this MSA on the part of the Provider or with the employment of labor or the incurring of expenses by the Provider. Said Provider is an independent provider in the performance of each and every part of this MSA, and solely and personally liable for all labor, taxes, insurance, required bonding and other expenses, except as specifically stated herein, and for any and all damages in connection with the operation of this MSA, whether it may be for personal injuries or damages of any other kind. The Provider shall exonerate, indemnify and hold the state of Idaho harmless from and against and assume full responsibility for payment of all federal, state and local taxes or contributions imposed or required under unemployment insurance, social security, workman's compensation and income tax laws with respect to the Provider or Provider's employees engaged in performance under this MSA. The Provider will maintain any required workman's compensation insurance. There will be no exceptions made to this requirement and failure to provide a certification of workman's compensation insurance may, at the State's option, result in cancellation of this MSA or in a contract price adjustment to cover the State's cost of providing any necessary workman's compensation insurance. The State does not assume liability as an employer.

SECTION 1.17 ANTI-DISCRIMINATION / EQUAL EMPLOYMENT OPPORTUNITY CLAUSE

Acceptance of this MSA binds the Provider to the terms and conditions of Section 601, Title VI, Civil Rights Act of 1964 in that "No person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance." In addition, "No other wise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal

AGREEMENT

financial assistance" (Section 504 of the Rehabilitation Act of 1973). Furthermore, for contracts involving federal funds, the applicable provisions and requirements of Executive Order 11246 as amended, Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, Section 701 of Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967 (ADEA), 29 USC Sections 621, et seq., the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, U.S. Department of Interior regulations at 43 CFR Part 17, and the Americans with Disabilities Action of 1990, are also incorporated into this MSA. The Provider must include this provision in every subcontract relating to this MSA.

SECTION 1.18 STATE OF IDAHO MINIMUM WAGE LAW

It will be the responsibility of the Provider to fully comply with Idaho law regarding the minimum wage law for residents hired to help on projects and jobs in Idaho.

SECTION 1.19 CONFIDENTIAL INFORMATION

Pursuant to this MSA, the Provider may collect, or the State may disclose to Provider, financial, personnel or other information that the State regards as proprietary or confidential ("Confidential Information"). Confidential Information shall belong solely to the State. The Provider shall use such Confidential Information only in the performance of its services under this MSA and shall not disclose Confidential Information or any advice given by it to the State to any third party, except with the State's prior written consent or under a valid order of a court or governmental agency of competent jurisdiction and then, only upon timely notice to the State. The State may require that the Provider's officers, employees, agents or subcontractors agree in writing to the obligations contained in this section. Confidential Information shall be returned to the State upon termination of this MSA. The confidentiality obligation contained in this section shall survive termination of this MSA. "Confidential Information" shall not include data or information that:

- a) Is or was in the possession of the Provider before being furnished by the State, provided that such information or other data is not known by the Provider to be subject to another confidentiality agreement with or other obligation of secrecy to the State;
- b) Becomes generally available to the public other than as a result of disclosure by the Provider; or

Idanet™ MASTER SERVICES

AGREEMENT

- c) Becomes available to the Provider on a non-confidential basis from a source other than the State, provided that such source is not known by the Provider to be subject to a confidentiality agreement with or other obligation of secrecy to the State.

SECTION 1.20 FORCE MAJEURE

Neither party shall be liable or deemed to be in default for any Force Majeure delay in performance occasioned by unforeseeable causes beyond the control and without the fault or negligence of the parties, including, but not restricted to, acts of God or the public enemy, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, unusually severe weather, provided that in all cases the Provider shall notify the State promptly in writing of any cause for delay and the State concurs that the delay was beyond the control and without the fault or negligence of the Provider. The Provider shall make every reasonable effort to complete performance as soon as possible.

SECTION 1.21 GOVERNING LAW; VENUE AND SEVERABILITY

This MSA shall be construed in accordance with, and governed by the laws of the state of Idaho. Except to the extent the provisions of the MSA are clearly inconsistent therewith, the MSA shall also be governed by the applicable provisions of the Idaho Uniform Commercial Code (IUCC). To the extent this MSA entails delivery or performance of services, such services shall be deemed "goods" within the meaning of the IUCC, except where deeming such services as "goods" would result in a clearly unreasonable interpretation. Any action to enforce the provisions of this MSA shall be brought in state district court in Ada County, Boise, Idaho. In the event any term of this MSA is held to be invalid or unenforceable by a court, the remaining terms of this MSA will remain in force.

SECTION 1.22 ENTIRE AGREEMENT; HEADINGS

This MSA, with any service order issued pursuant to this MSA and the Provider's targeted service level objectives, constitute the entire agreement between the parties with respect to the subject matter hereof and shall supersede all previous bids, proposals, or quotations, both oral and written, discussions, representations, commitments, and all other communications between the parties. The terms of the MSA shall prevail notwithstanding any variances with the terms and conditions of any other order submitted by the state of Idaho. Any headings contained in this MSA are for convenience only.

STATE _____

Idanet™ MASTER SERVICES

AGREEMENT

SECTION 1.23 OFFICIALS, AGENTS AND EMPLOYEES OF THE STATE NOT PERSONALLY LIABLE

It is agreed by and between the parties hereto that in no event shall any official, officer, employee or agent of the State be in any way personally liable or responsible for any covenant or agreement herein contained whether express or implied, nor for any statement, representation or warranty made herein or in connection with this MSA. This section shall not apply to any remedies in law or at equity against any person or entity that exist by reason of fraud, misrepresentation or outside the terms of this MSA.

SECTION 1.24 NOTICE

Notices will be in writing and delivered by registered or certified US Mail, postage prepaid, or by commercial overnight delivery service, or by facsimile, or by regular mail and shall be deemed delivered either on the date of return receipt acknowledgment (in the case of certified US Mail), or on the next day after the sending of the notice (in the case of facsimile or overnight delivery service), or three (3) days after mailing if by regular mail. Notwithstanding the foregoing, in the event of facsimile notice, the confirming original must be sent by overnight delivery service for notice to be deemed effective. Either party may change its address by providing written notice to the other party.

If to State:

Division of Purchasing

Attn: _____

Fax #: _____

If to Provider:

SkyFrames, Inc.

555 Anton Blvd. 12th Floor

Costa Mesa, Calif. 92626

Attn: Chet Noblett

Fax #: 714-242-9796



Idanet™ MASTER SERVICES AGREEMENT

Article II. SERVICE LEVELS

Section 2.01 STATE RESPONSIBILITIES

- a) **Assigning a Services Manager:** Except as otherwise provided in this MSA, the State shall assign its primary point of contact known as the Idanet™ Services Manager. Idanet project management and coordination shall be through the ISM. The ISM will facilitate the review and approval of all Provider furnished documentation, network drawings, progress reports, test plans and procedures as required and requested.
- b) **Establishing a State Network Operations Center:** The State shall establish its State Network Operations Center. The SNOC's responsibilities will include (i) service management; (ii) monitoring network performance; and (iii) providing 24 x 7 first-level technical support. The State reserves the right to use internal or outsourced resources, or both, in its SNOC.
- c) **Obtaining and Securing Networking Equipment:** The State shall obtain, install and maintain all equipment, software, wiring, and power sources necessary for interconnection with the Provider's network services up to the Point of Demarcation. The State will maintain its facilities up to the Point of Demarcation in accordance with industry standards. Further, the State, at its expense, shall take reasonable physical and information systems security measures necessary to protect all State-acquired or Provider-owned equipment located on State premises.
- d) **Reasonable Access to State Sites:** The State shall ensure reasonable access for the Providers' employees and their subproviders' employees to State sites where network services will be or have been installed. Access will be provided for the purposes of installation and preventative and corrective maintenance.

Section 2.02 PROVIDER RESPONSIBILITIES

- a) **Filing Individual Case Based Contracts (ICB's):** The Provider specifically acknowledges that less than ten percent (10%) of data traffic traversing the Provider's network will be interstate. The Provider is responsible to file ICB's with the appropriate regulatory authority and to supply copies to the Division of Purchasing.

AGREEMENT

- b) **Assigning Account Team and Providing an Escalation List:** The Provider shall assign an account team made up of the following functional positions: an Executive Sponsor, an Account Manager, a Network Engineer and a Billing Specialist. This account team will be assigned within thirty (30) calendar days after signing this MSA. The Executive Sponsor will be empowered to authorize credits and mobilize Provider resources; the Account Manager will liaise with the ISM; the Network Engineer will assist with network design and capacity planning; and the Billing Specialist will correct erroneous billings.

Upon request of the State, the Provider will submit an escalation list to the ISM. The escalation list will contain the contact name, work phone number, cell phone number, home phone number and e-mail address for each member of the account team. The Provider will deliver this list to the ISM within five (5) business days after request.

- c) **Provide 7 x 24 network monitoring:** The Provider agrees to maintain a 7 x 24 x 365 manned network operations center to monitor services used by the State.

Section 2.03 **PERFORMANCE OBJECTIVES**

The Provider warrants all networking elements comprising the Provider's network, including without limitation hardware, equipment and cables, conform to applicable industry standards promulgated by recognized industry standards bodies. These may include, but are not limited to, the ATM Forum, the Frame Relay Forum, EIA/TIA, ANSI or ITU.

Further, the Provider will submit to the ISM within five (5) business days after signing the MSA the Provider's targeted service level objectives for its network for each of its offered services offered. Said objectives will include some or all of the following: availability, reliability, mean-time-to-repair (MTTR), mean-time-between-failure (MTBF), and bit error rate (BER). The targeted service level objectives will become part of and incorporated into this MSA as if set forth in full.

Section 2.04 **SERVICE MANAGEMENT**

- a) **Initiation of New Service:** The SNOC will place a service order for new service either by fax or by e-mail. The format of the service order will conform to the example show in *Exhibit 1*. The due date for a service order will be mutually agreed upon when the SNOC places an order. If the Provider

AGREEMENT

cannot complete installation after thirty (30) calendar days past the established due date for a service order, the State at its option may seek, without penalty, substitute services from another Provider. Further, the SNOC will track the status of a service order via phone, written form or, preferably, electronic form.

- b) **Reconfiguration of existing service:** The SNOC will place a service order for reconfiguration of service either by fax or by e-mail. The format of the service order will conform to the example shown in *Exhibit 1*. The due date for a service order will be mutually agreed upon when the SNOC places an order. If the Provider cannot complete reconfiguration after thirty (30) calendar days past the established due date for a service order, the State at its option may seek without penalty substitute services from another Provider. Further, the SNOC will track the status of a service order via phone, written form or, preferably, electronic form.
- c) **Disconnection of service:** The SNOC will place a service order for discontinuance of service either by fax or by e-mail. The format of the service order will conform to the example show in *Exhibit 1*). Except as otherwise provided in this MSA, the State is obligated to give the Provider no more than thirty (30) calendar day's notice. The State is not obligated to pay for service beyond this thirty (30) calendar-day interval unless there is an early termination charge pursuant to Section 1.07(b). The SNOC will track the status of a service order via phone, written form or, preferably, electronic form.

Section 2.05 PROBLEM MANAGEMENT

- a) **Trouble Reports:** The SNOC will place a trouble report either in written form (e.g., memo or fax) or, preferably, electronic form (e.g., web-based forms). Further, tracking progress of problem resolution will be accomplished via telephonic or electronic notification (e.g., web based or e-mail).
- b) **Liquidated Damages:** It is essential that the services be provided uninterrupted. The Provider agrees to delivery of service as agreed upon pursuant to this MSA and any service order issued pursuant to this MSA, including the targeted service level objectives. Failure to provide services constitutes an event of default. The parties agree that actual damages to the State for the failure of or delay in delivery will be difficult or impossible to determine. Therefore, if the Provider misses the Initial Response time for a Major Trouble, the Provider may be assessed \$250 (two hundred fifty dollars) per hour for each hour missed, as liquidated damages not as a penalty. If the Provider misses the ilinitial Response time for a Minor

AGREEMENT

Trouble, the Provider may be assessed \$150 (one hundred fifty dollars) per hour for each hour missed, as liquidated damages not as a penalty.

If either a Major or Minor Trouble has not been fully remedied after eight (8) hours from the time of the trouble report, \$750 (seven hundred fifty dollars) per hour may be assessed as liquidated damages, not as a penalty, until such time as the Major or Minor Trouble is fully remedied. The State reserves the right to offset the amount of liquidated damages against other sums owing under this MSA or any service order issued hereunder. The liquidated damages provided for in this MSA are not exclusive and are cumulative to any other rights at law or in equity that the State may have. The Provider shall not be assessed liquidated damages when delay arises out of cause beyond the control and without the fault or negligence of the Provider.

- c) **Chronic Trouble Remedy:** "Chronic Trouble" is a particular circuit for which (i) three or more trouble tickets have been opened for the same trouble within a 90-day period, or (ii) one service outage has occurred for a duration of more than 24 hours, or (iii) service outages accumulating one hundred twenty (120) hours or more over any period of one hundred eighty (180) consecutive calendar days and the cause of each such trouble is determined to be in Provider's network and is not the result of a cause beyond the control and without the fault or negligence of the Provider.

Whenever State or User reports to Provider and Provider confirms that a Service is a chronic trouble circuit, Provider will immediately perform a detailed investigation and report the findings to State and User. State or User may disconnect a specific Chronic Trouble circuit without incurring termination liability or further obligation, except for payment due and owing for Service received prior to termination, by providing Provider written notice, unless such circuit has remained trouble free for a period of thirty (30) days prior to such termination notice.

Section 2.06 MANAGEMENT REPORTING

- a) **Capacity Planning:** The Provider shall offer and the State may optionally subscribe to performance-based network management information. This information would be used by the State for capacity planning. Ideally, the Provider's reporting system will allow the State to look at network activity in the form of a "snapshot" (i.e. what's happening at a moment in time) and in the form of "trending" (i.e. what's happening over a period of time). The State prefers that such information be provided electronically in a graphical format and that the information is compatible with its existing network management tools (e.g., Cisco Works Classic for Unix, Cisco Works 2000 Campus, and Network Associates RouterPM).

AGREEMENT

- b) **Inventory Control:** The Provider shall offer and the State may optionally subscribe to inventory management information. This information would be used by the State for analyzing costs, service variety and service location. The Provider may offer this information in the form of a compact disc or via the Internet using a web browser.

Section 2.07 **PLANNED OUTAGES**

The Provider shall provide at least 24-hour advanced notice of any planned outages affecting the Provider's network. The Provider will notify the SNOC.

Section 2.08 **BILLING & CREDITS**

- a) **Billing address and interval:** The Provider will render a timely, accurate and complete invoice to the proper billing address. Said billing address will be identified when the SNOC orders new service or reconfigures existing service. Further, the billing "end date" (e.g., the 1st of the month, the 10th, or the 20th) will be mutually agreed upon between the User and the Provider.
- b) **Invoicing for a finished service:** Where by necessity a finished service is provisioned by the Provider and other telecommunications carriers, the State requires a single consolidated invoice.
- c) **Billing elements:** Invoice rendered by the Provider should include applicable one-time charges, recurring charges and any prorated charges.
- d) **Application of Credits:** The ISM shall notify the Provider in writing of any billing or administrative errors, including identifying the amount of the claimed mistake. The Provider shall respond in writing to such notification within fifteen (15) days of receipt. Failure to so respond shall be deemed agreement by the Provider to the amount of the claimed mistake. Credits for any billing or administrative errors shall be applied by the Provider to the proper account within forty-five (45) calendar days of notification of such error. The State reserves the right to offset amounts in dispute pursuant to this section pending resolution thereof.



Idanet™ MASTER SERVICES AGREEMENT

Article III. PRICING / SERVICE COVERAGE AREA (SkyFrames, Inc.)

Prices listed herein represent the most favorable pricing offered by the Provider to any other customer of similar size, complexity and scope. If the Provider separately offers lower pricing to any Voluntary User, the Provider is obligated to offer the same lower pricing to all Users under this MSA.

Further, listed pricing represents pricing ceilings and are inclusive of any applicable fees, taxes and surcharges.

List geographic service coverage areas (i.e. cities) within the state of Idaho your company offers the services requested in this MSA.

Section 3.01 **SPECIAL CONSTRUCTION CHARGES**

Table 3.01: SkyFrames, Inc. Special Construction Charges

SkyFrames reserves the right to charge any fee which might be incurred by its subcontract installers which might occur due to unusual building configuration or hazardous installs.

Section 3.02 **ONE-TIME & RECURRING CHARGES**

Table 3.02(a): SkyFrames One-Time & Recurring Charges

<u>Service</u>	<u>One-Time</u>	
1. All standard installs are complete with	\$15,000	
2.		
3.		
4.		
5.		
6.		
7.		
8.		

Connecting the World Securely Via Satellite

Cost Mesa, CA 92626

Phone (714) 822-3900 - Fax (714) 822-3900



The following number must appear on all related correspondence, shipping papers, and invoices:

To:

Ship To:

W.O. DATE	REQUESTED BY	DEPARTMENT	INVOICE # FOR BILL	TERMS

[illegible]

1. Please send two copies of your work order.
2. Enter this order in accordance with the prices, terms, and specifications listed above.
3. **Send all correspondence to:**

SkyFrames, Inc
555 Anton Blvd. Suite 1200 (Accounting)
Phone (714) 822-3900 - Fax (714) 822-3900

Authorized by _____

Date _____

Idanet™ MASTER SERVICES

AGREEMENT

Table 3.02(a): SkyFrames One-Time & Recurring Charges

<u>Service</u>	<u>One-Time</u>	
----------------	-----------------	--

Idaho Contracted Bandwidth Charges Recurring Monthly

Downlink Bandwidth in kbps

<u>Uplink in kbps</u>	<u>256</u>	<u>512</u>	<u>1000</u>	<u>1500</u>	<u>2000</u>	<u>4000</u>
32	\$125	\$180				
64	\$155	\$210	\$220			
128	\$175	\$250	\$280			
256	\$210	\$275	\$320	\$350		
384		\$325	\$350	\$375		
512			\$375	\$400	\$410	
1024				\$415	\$425	\$435
1536					\$450	\$475
2048					\$475	\$525

Section 3.03 SERVICE COVERAGE AREAS

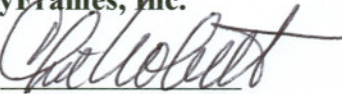
Table 3.03(a): SkyFrames, Inc. – Idaho Locations

Idanet™ MASTER SERVICES AGREEMENT

<u>City</u>
SkyFrames covers all of Idaho

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.


SkyFrames, Inc.

By: 

Title: Chairman

Date: June 14, 2004

STATE OF IDAHO

By: 
Title: ADMINISTRATOR
DIVISION OF PURCHASING

Date: 6/29/2004

IdanetTM MASTER SERVICES AGREEMENT

Exhibit 1:
**Idanet: Standard Service Order Form
(sample):**

*Attached
edh*



Site survey Part A - Satellite dish installation

So as our satellite dish installer is properly prepared when he arrives to install the dish for your **SkyFrames** system, please fill out the form below in its entirety and **fax it to (714) 822-3000** *attn: Customer Support* Or E-mail to skyadmin@skyframes.com *attn: Customer Support*

Company Name: _____ and Location of Install _____

Address: _____ Address of Installation _____

City: _____ City _____ State: _____ State _____ Zip: _____ Zip: _____

Phone: _____ Ext.: _____ Fax: _____

Contact Name: _____ Contact E-mail: _____

The satellite dish will be either 1.2 meter (approximately 4ft) or 1.8 meter (approximately 6ft) in diameter depending on your location, for the large application a 2.4 meter. It shipped with a non-penetrating roof mount unless specified otherwise. In some cases a penetrating mount or a pole mount on the ground may be preferable or required. If a penetrating or pole mount is preferred, please indicate below. The dish requires an unobstructed view to the South East /South/ South West, depending upon the site location. It is also your responsibility to comply with all applicable building, city and other municipal codes and covenants. Please note that there may be local zoning ordinances regarding the placement of the antenna, especially with pole mounts. It is your responsibility to ascertain the legality of the installation. We urge you to find out all possible legal locations for the dish and have the antenna installation technician assist with the best choice.

1. Will the satellite dish be located on the:
A) Roof
B) Wall
C) Ground
2. I would prefer a:
A) Non-penetrating roof mount (*Please note that some municipalities do not allow this type of mount.*)
B) Penetrating Wall/Roof Mount
C) Pole mount
3. How many floors high is the building? _____ Floors.
4. What floor is the Satellite Remote Gateway server going to be located on? _____ Floor.
5. Is there an existing point of entry for the coax cable that will run from the satellite dish to the Remote Gateway
Yes
No

SkyFrames, Inc
Customer Service Center SkyLab
4061 Oceanside Blvd.Suite A
Phone: (760) 940-4200
Fax: (443) 697-0599
www.skyframes.com

If you answered yes to question 5 please describe:

6. What is the distance, in feet, from the proposed dish location to the Remote Gateway server? _____ Ft.

Please describe the cable run from the dish to the Remote Gateway server:

7. Is a ladder needed to get to the satellite dish location? Yes No

If you answered "No" to question 7 please describe the available roof access. Be sure to include details describing the size and accessibility of any and all ladders, stairways, doors, hatches, etc. that will be involved in gaining access to the roof:

8. Is plenum cabling required? *Plenum cable is cable that can be legally installed in the plenum (the space between a ceiling and the floor above it). Such cable is usually Teflon-coated so that it will not give off toxic fumes when burned. In some areas the law requires Plenum cable. Plenum cable usually costs more than standard RG-6 coax cable. Please check with the appropriate authorities to see if plenum cable is required for this application.*

Yes

No

9. If the dish is to be located on the roof, what is the roof composition?

A. Tar and Gravel

B. Rubber Membrane

C. Built-up

D. Other (describe)

10. Please specify what days of the week and time will be available for the technician to schedule the satellite dish installation. _____ Days _____ Time.

11. Please provide any further information in regards to question 10, such as days and times that are definitely unavailable, and/or days and times that will work best for you.

12. Are special permits required for the satellite dish installation? (Please note that you are responsible for obtaining this approval if needed.)

Yes No

13. Is landlord/building management approval required? (Please note that you are responsible for obtaining this approval if needed.)

Yes No

14. We will attempt to coordinate a Licensed/Bonded satellite technician/installer. Do you need an Insurance certificate from the installer?

Yes No

Site survey Part B - Network Information

In order to prepare the *SkyFrame* server to be placed in your network we would like to have one of your MIS or IT personnel review this survey and answer the questions as completely as possible. Please fill out the form below in its entirety and fax it to (714) 822-3900 attn: Customer Service Manager.

MIS/IT Contact Name: _____ MIS/IT Contact E-mail: _____

Phone: _____ Ext.: _____ Fax: _____

The *SkyFrame* system is a robust and very adaptable system capable of being setup on a network by the most novices of users with the help of our support staff. Every network is different, however, and we understand that by placing a new system on an unknown network environment could cause conflicts if done incorrectly. This survey will help us answer some basic questions that will alleviate any concerns you or we may have regarding placing our system on your network. It is preferable and highly advised that you have a person from your MIS/IT staff fill out this survey as they are the most qualified to answer these questions. *If you do not have a IT staff member available and require assistance please feel free to call our Customer Service Manager line at (714) 822-3900*

We will begin with a brief explanation as to how our system is primarily configured on a network. From this you can determine how best to answer the questions that follow.

Our system is an advanced and specially tailored with an NT 4.0 Workstation with all of the capabilities offered by this type of operating system. The system itself has two (2) Network Interface Cards. One (1) interface is used to communicate through our satellite network. The 2nd interface is used to communicate through the Local Area Network. Our system is also running what is called a Network Address Translation. This allows for the single satellite connection of our system to be shared to the rest of the Local Area Network that it is placed in. The NAT, as it is most commonly referred to, also has Proxy/Firewall capabilities as well as the ability to serve as a DHCP Server to automatically assign IP addresses to users on the network (**Note: DHCP service is disabled by default so as not to cause any conflicts on a network that is already running such a service.**). In order for a workstation to access through our system it must be on the same IP Address range as our server. Our server can conform to any static or private IP address necessary. With the workstation and our *SkyFrame* on the same IP address range the workstation will also need to have it's "TCP/IP Gateway Address" pointing to the IP address of our Remote Gateway server. If for some reason this is not possible due to the current network configuration there are ways around this common setup and an IT staff member of your company should contact our support line to discuss the workarounds. Let's move forward with the questions:

15. How many users/workstations will be accessing the internet on your network?:

- A) 1-50 _____
- B) 50 - 100 _____
- C) 100 + _____
- D) Exactly _____

16. Do you currently have a dedicated Internet Connection (Do not include Dial Up Accounts)?

- A) Yes _____
- B) No _____

If yes, what type of connection is it? ISDN _____ ADSL _____ CABLE _____ T-1 _____ Other _____

17. Do you currently have a TCP/IP Address Range on your network?

- A) Yes _____
- B) No _____

If yes can you reserve and list one IP Address to be used for Local Area Network communication between the Satellite Remote Gateway and your network:

IP Address: _____ Subnet Mask: _____

18. Do you have any Web or Mail servers, including Microsoft Exchange Server, that are currently in place and being used on your current connection? Yes _____ No _____

If yes please Specify: _____

Note: Due to the nature and outbound limitations of Satellite Internet connectivity web server or mail server hosting is not condoned with our services. Microsoft Exchange Server will function through our system but this requires additional configuration considerations such as an **additional Static IP Address**. Please alert us to the function of your MS Exchange Servers, i.e. if they are used for Internal Mail, External Mail, or both. We will then make concessions to see that these servers will function properly through our Satellite Remote Gateway with your assistance.

19. What type of email does your company currently use? Check all that apply:

- A) _____ Internet Service Provider Hosting your current website and Email Services.
B) _____ Web based Email Services such as Yahoo, MSN, Hotmail, etc.
C) _____ Internal Email for Local Area Network Only, such as MS Post office.

20. What types of operating systems are on your network? i.e. Windows 95,98,2000/XP/ Unix / Macintosh, etc.

21. If you are an Educational Institution is your network sub-divided into Student and Administrative divisions?
_____ Yes _____ No

If yes how many subnets does your network have? _____

8. To further assist you in configuring our **SkyFrame** system to function properly with your current network we would like to request that you send us a Network Topology Map (in a VISIO format if possible). If you do not have VISIO please send us as much information as possible on a separate sheet(s) of paper with all of your imperative network topology information such as IP address ranges, Segments, # of workstations, # of servers and types, bridges, routers, and anything else you may think we need to take into consideration when installing our Internet services in your location.

By signing below, I hereby certify that I am an authorized representative of my company and/or organization and that the information I have provided on this form is accurate and true. I also certify that all necessary authorizations for a satellite dish installation have been granted from my governing municipalities, landlord, building manager and/or any other concerned parties.

I also grant SkyFrames, Inc permission to use this information to arrange for a satellite dish installation once a purchase agreement has been made between SkyFrames, Inc and myself.

By Name: Please Print _____

Signature: _____ Date: _____